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NEWS AND NOTES

THE INITIATIVE, REFERENDUM AND POPULAR ELECTION OF SENATORS IN OREGON

GEORGE A. THATCHER

At the June election of 1906, two United States senators were chosen by popular vote, and the legislature, following out the provisions of the primary law, elected the peoples' choice.

At the general election this year, there was a complication of circumstances which threatened to wreck the new system of choosing senators. The old-time leaders of the republican party decided that there was too much risk in having members of the legislature promise to elect the peoples' choice for senator and made determined warfare upon Statement No. 1 of the primary law, which involves that promise. Republican county conventions, which were called to establish harmony, wrangled over the question without coming to any definite conclusion except in one or two instances. There was a certain hesitancy on the part of the candidate for the legislature in signing Statement No 1 in the face of the expressions of contempt and ridicule by the newspaper opponents of the system. However, there were enough Statement No. 1 men nominated and elected from both parties to give a majority in each house. The republican party has a majority of about thirty thousand in the State and elects the major portion of both houses.

In the election of senator, the republican candidate who was nominated at the primaries failed to announce his position on Statement No. 1 until some weeks had passed, which undoubtedly weakened his campaign. The democratic candidate, who is perhaps the most popular man in the State, has made his political reputation as an upholder of the initiative and referendum and the popular election of senators. He made an aggressive campaign and won the election by 1522 votes. There was an element in the republican party that worked for his success in the hope of throwing the election into the republican legislature, with the idea that the plan of the primary law would collapse under party pressure. Most of the Statement No. 1 republicans have announced

their intention of standing by their promise, in which case the fight will simply have strengthened the new institution instead of destroying it. The sentiment among the voters is overwhelming, though the politicians are not so single-minded. The best illustration of that is to be found in the vote on a law introduced by initiative petition directing the members of the legislature to vote for the people's choice for senator. The law cannot be claimed to be constitutional in view of the language of the national Constitution, but it polled the second biggest vote of any of the nineteen measures submitted to the people. It was adopted by a vote of 69,668 for, to 21,162 against. Naturally the choice of senator will not always be made from the party having a majority in the State, but if public sentiment justifies a popular choice the politicians will have to submit. There is some talk of the method being unconstitutional, but it is hard to see how the usual form of election in the legislature can be repudiated because ante-election promises have been kept by the legislatures.

The election was a crucial one in another respect, and that was in the number and nature of the measures submitted to the voters at the polls. There were four measures referred by the legislature to the people. An amendment to the constitution to increase the pay of members of the legislature from \$3 a day to \$400 for the regular session was defeated by a vote of 19,664 for, to 68,892 against. An amendment permitting State institutions to be located at other places than the capital was adopted by a vote of 41,975 for, to 40,868 against. An amendment increasing the number of judges of the supreme court and transferring probate business to the circuit courts was defeated by a vote of 30,243 for, to 50,591 against. An amendment changing the time of State elections from June to November, was adopted by a vote of 65,728 for, to 18,590 against.

There were four acts of the last legislature on which referendum petitions had been filed. The act giving the sheriff entire control of prisoners with the rate prescribed for meals, in counties having over 100,000 population, was approved by 60,443 for, to 30,033 against. An act virtually compelling railroads to give free passes to all State, county and district officers, which repealed the anti-pass law adopted by the voters at the polls in 1906, was defeated by a vote of 28,856 for, to 59,406 against. An act appropriating \$100,000 for armories for the State militia was defeated by a vote of 33,507 for, to 54,848 against. An act increasing the annual appropriation for the State university to \$125,000 a year was approved by a vote of 44,115 for, to 40,535 against.

There were introduced by initiative petition six amendments to the Constitution and five laws. The woman suffrage amendment received the largest vote of any measure considered as it did two years ago. It was defeated by a vote of 36,858 for, to 58,507 against. The majority against the measure in 1906 was 10,173. This year it was more than twice as large. The women of the State are divided on the question which may account for the fact that the amendment has been defeated four times. The amendment in the nature of a single tax aroused great interest. It exempted all property from taxation except land, business blocks, improvement of public service corporations, money and credits. That would have left dwellings, furniture, manufacturing plants, live stock, implements and improvements generally, free from taxes. The amendment was much discussed and finally defeated by a vote of 32,066 for, to 60,871 against. An amendment giving municipalities independence of the State criminal laws in the matter of regulating pool rooms, saloons and gambling was defeated by a vote of 39,442 for, to 52,346 against. An amendment permitting the legislature to pass a law for the recall of public officers on the filing of a petition for the purpose was adopted by a vote of 58,381 for, to 30,002 against. The amendment provided that not more than 25 per cent of the voters should be required to sign such petition for a recall and a new election. No official may be discharged until after six months' service except members of the legislature where resignation may be demanded five days after the beginning of their first session. The reason for the recall shall be printed on the sample ballot within the limit of 200 words and the official recalled shall be permitted the same number of words in defense.

An amendment permitting the legislature to pass a law providing for proportional representation was adopted by a vote of 48,868 for, to 34,128 against. Provision may be made for the expression of first, second and additional choices of a candidate by the voters. This amendment is very possibly the most important measure adopted in Oregon this year, but the difficulties in the way of securing an effective law, as indicated by the various experiments in the United States and elsewhere, leaves the question more or less open to debate. However, the spirit underlying the gerrymander cannot be considered as permanently established in a democracy. An amendment withdrawing the power of prosecuting attorneys to file an information for crime was adopted by a vote of 52,214 for, to 28,487 against.

Of the laws proposed by initiative petition, the one directing the legislature to vote for the people's choice for senator has been mentioned.

An act to divide a county was adopted by a vote of 43,918 for, to 26,778 against. An amendment adopted in 1906 giving absolute home rule to municipalities, subject to the constitution and criminal laws, according to a recent decision of the supreme court, deprives the legislature of the power of creating new counties. A corrupt practices act was adopted by a vote of 54,042 for, to 31,301 against. It is an unusually long and detailed act to be adopted at the polls, but the last legislature declined to act in the matter. The intention of the act is to place poor men on an equality with rich men in making a campaign for public office. The act limits expenditures to 15 per cent of a year's salary in the nominating campaign and 10 per cent in the electing campaign, aside from money paid to the State for printing. The State is required to circulate campaign literature. Corporation contributions are forbidden, and detailed expense accounts are required to be filed by the candidates. A candidate's friends may speak and write for him without pay, or publish writings, but the difficulties in the way of giving much assistance are very great. All solicitation on election day is absolutely barred. There were two laws introduced to regulate the salmon fisheries of the Columbia river. The lower-river fishermen proposed an act to abolish all the gear of the upper-river fishermen. It was adopted by a vote of 58,130 for, to 30,280 against. The upper-river fishermen proposed a law limiting the length of seines and abolishing fishing in the navigable channels of the lower river and stopping fishing at night in all other portions of the river. The law was adopted by a vote of 46,582 for, to 40,720 against. The legislature has never succeeded in securing a suitable law regulating the fisheries because of the conflicting interests. The "interests" tried to regulate each other this year and the voters agreed to both propositions. It may pave the way for a reasonable law on the subject by the legislature.

The election on the whole did not commit the people to any manifest absurdities. The distinctly bad measures were defeated. The measures looking towards desirable reforms cannot be condemned until they have been tried. Two years ago, the measures submitted received on an average 75 per cent of the total vote cast. This year with nineteen measures to be voted upon all over the State besides some local questions and various candidates, the average vote on legislative questions and amendments was 74 per cent of the total. The ballot which I marked on June 1 called for a vote on thirty-seven candidates for office and twenty questions of laws and amendments. The prohibition movement added a number of counties to the "dry" list this year.

There is no feeling in Oregon that the people are going to usurp the business of the legislature, though the ballot this year does look like it. The legislature has all the work it can do and if it is so inclined can forestall legislation at the polls, except upon propositions like the single tax. Voting on such questions is the penalty of popular law-making, but the results are reassuring. There is no question of the continued interest of the people and the average public opinion seems to be at least as sensible as what Mr. F. N. Judson has called the deliberate representative judgment.

PERSONAL AND BIBLIOGRAPHICAL

J. W. GARNER

In order that, beginning with 1909, the volume of the REVIEW may correspond with the calendar year, no August, 1908, number was issued. The present number completes volume two.

The FIFTH ANNUAL MEETING OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION will be held in Washington, D. C., and Richmond, Va., December 28 to 31. At the first session, to be held jointly with the American Historical Association, Monday evening, December 28, in Washington, the President of the Association, Mr. James Bryce, will deliver his address. The Tuesday morning session, also to be held in Washington, will be devoted to papers dealing with questions of international law. In the afternoon a special train will take members of the two associations to Richmond, where sessions will be held until Thursday afternoon, the general topics being recent State constitutions, municipal government, the increase of federal power and influence, the problems of colonial government as revealed by ten years' experience in Porto Rico and the Philippines, and the teaching of political science.

The recent death of Prof. Felix Stoerk in his fifty-seventh year was a distinct loss to the science of international law and politics. Dr. Stoerk was born in Austria and received his doctorate from the University of Vienna. From 1878 to the time of his death he was a prolific contributor to the literature of political science and international law. It was to the *Revue de droit international et de législation comparée* and the *Journal de droit international privé* that most of his contributions were made, though he occasionally published articles in other periodicals. In